

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today
(1) was not written for publication in a law journal and
(2) is not binding precedent of the Board.

Paper No. 24

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCE

Ex parte HIDETOSHI HIRATA

Appeal No. 96-0494
Application 07/974,209¹

HEARD: February 5, 1998

Before URYNOWICZ, BARRETT and CARMICHAEL, ***Administrative Patent Judges***.

CARMICHAEL, ***Administrative Patent Judge***.

DECISION ON APPEAL

This is an appeal from the final rejection of Claims 1-3, which constitute all the claims remaining in the application.

Claim 1 reads as follows:

1. A magnetic tape cassette comprising:

¹ Application for patent filed November 11, 1992.

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a cassette case comprising upper and lower cassette halves defining therebetween a front surface opening;

a pair of tape winding members rotatably supported within said case;

a magnetic tape wound around said members;

a guard panel for covering said front surface opening, said guard panel including two side plates at opposite ends thereof;

two support shafts provided, respectively, on said two side plates of said guard panel for rotatably mounting said guard panel to said case; and

a rib provided on one of said two side plates as an integrally molded part of said one of said two side plates, said rib having a thickness smaller than a thickness of said one of said two side plates and extending along an edge surface of said one of said two side plates, said rib having an inner surface with faces toward a central portion of said case and an outer surface which faces away from said central portion, said rib projecting from said one of said two side plates so that said rib is received in a gap formed on a side of said case adjacent to said one of said two side plates, said gap conforming in size and shape to said rib and having an opposing surface which opposes said outer surface to thereby restrict lateral movement of said guard panel when said guard panel covers said front surface opening.

The Examiner's Answer cites the following prior art:

Tanaka	4,933,796	Jan. 12, 1990
Eggebeen	4,989,806	Feb. 5, 1991

OPINION

Claim 1-3 stand rejected under 35 U.S.C. § 103 as being unpatentable over Tanaka in view of Eggebeen.

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The claimed invention relates to a magnetic tape cassette with a rotatably mounted guard panel. A gap or stepped portion on either the cassette or the guard panel conforms in size and shape to a rib on the other of the cassette and guard panel. The gap or stepped portion opposes the rib to restrict lateral movement of the guard panel in the closed position.

The examiner concedes that Tanaka fails to disclose a stepped portion conforming in size and shape to rib 20a1 but contends that it was known in the art to utilize matching protrusions and recesses for controlling the movement of adjacent members. Eggebeen is cited as an example of such well known matching protrusions 72 and recesses 74. Examiner's Answer at 4-5. The examiner further concedes that Tanaka's rib restricts lateral movement only when the panel is at an open position, not at a closed position as claimed, but contends that it would have been obvious to restrict the closed position in order to avoid detachment of the guard panel. Examiner's Answer at 3-4.

Appellant argues that there is no suggestion to combine the references in the manner proposed by the examiner. Appeal Brief at 6.

We agree with appellant.

Tanaka uses protrusion 20a1 to restrict the guard panel only when the guard panel is open. In the closed position, Tanaka elastically deforms the guard panel in place. Column 5, line 62 through column 6, line 42. The examiner identifies no suggestion in the prior art to alter Tanaka's arrangement in the recited manner.

Tanaka's side arm portion 17b climbs protrusion 20a1. Tanaka does this intentionally in order to maintain stably the guard member's position. Column 6, lines 30-42. This is in contradistinction to the recited arrangement in which a gap receives a protruding rib. Whereas Tanaka climbs over a protrusion and presumably deforms the guard panel in the process, appellants instead receive the protrusion in a mating gap. The examiner offers no motivation for changing Tanaka's climbing arrangement to appellant's mating arrangement. Eggebeen's tongue 72 does not conform in size and shape to groove 74 and is not used for a rotatable guard plate. Column 4, lines 45-68.

The mere fact that the prior art may be modified in the manner suggested by Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification. ***In re Fritch***, 972 F.2d 1260, 1266 n.14, 23 USPQ2d 1780, 1783-84 n.14 (Fed. Cir. 1992). In the present case, as

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pointed out by appellant at oral argument, the examiner has not identified in the prior art any suggestion to rearrange Tanaka's rib so that it mates with a gap when the guard panel is closed. Without establishing such a suggestion, the rejection cannot be sustained.

CONCLUSION

The rejection of Claims 1-3 is not sustained.

REVERSED

STANLEY M. URYNOWICZ, Jr.)	
Administrative Patent Judge)	
)	
)	
)	
LEE E. BARRETT)	BOARD OF PATENT
Administrative Patent Judge)	APPEALS AND
)	INTERFERENCES
)	
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JAMES T. CARMICHAEL)	
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